

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA**

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MALIBU MEDIA, LLC,	:	
	:	Case No. 2:19-cv-02245-NIQA
Plaintiff,	:	
v.	:	
	:	
DENNIS MCOWEN,	:	
	:	
Defendant.	:	
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**MOTION FOR ENTRY OF DEFAULT JUDGMENT
AGAINST DEFENDANT DENNIS MCOWEN**

Plaintiff, Malibu Media, LLC (“Plaintiff”), by and through undersigned counsel, and pursuant to Fed. R. Civ. P. 55, hereby files its Motion for Entry of Default Judgment (“Motion”) against Defendant, Dennis Mcowen (“Defendant”), and in support thereof, states:

1. This is a case for copyright infringement arising under United States Copyright Act of 1976, as amended, 17 U.S.C. §§ 101 et seq. (the “Copyright Act”).
2. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1331 (federal question); and 28 U.S.C. § 1338 (patents, copyrights, trademarks and unfair competition).
3. Plaintiff used proven IP address geolocation technology which has consistently worked in similar cases to ensure that Defendant’s acts of copyright infringement occurred using an Internet Protocol address (“IP address”) traced to a physical address located within this District, and therefore this Court has personal jurisdiction over defendant because (i) Defendant committed the tortious conduct in this State, (ii) Defendant resides in this State, and/or (iii) Defendant has engaged in substantial and not isolated business activity in this State.

4. Indeed, Defendant resides in the State of Pennsylvania at 1401 Peach Tree Lane, Philadelphia, PA 19111. As such, this Court has personal jurisdiction.

5. A Complaint was filed herein on May 22, 2019 [CM/ECF 1].

6. On October 04, 2019, Plaintiff filed its Amended Complaint [CM/ECF 11].

7. Service of summons and Amended Complaint was obtained as follows [CM/ECF 12]:

Defendant

Date of Service, Type of Service

Dennis Mcowen

November 11, 2019, Personal Service

8. Under Pennsylvania Code Rule 402(a)(1), process may be served by handing a copy to the defendant.

9. The Affidavit of Service [CM/ECF 12], describes that the process server gave a copy of the amended complaint and summons to the Defendant, Dennis Mcowen. Thus, service is appropriate.

10. Defendant has failed to plead or otherwise defend himself against Plaintiff's Amended Complaint.

11. A Clerk's Certificate of Default was issued as to Defendant Dennis Mcowen on December 4, 2019.

12. Defendant is not a minor or an otherwise incompetent person or on active duty in the U.S. Military. *See* Decl. of Christopher P. Fiore, Esq.

13. This Motion is based on the allegations in Plaintiff's Amended Complaint. Defendant has admitted all of the facts alleged therein by failing to plead or otherwise respond to the Amended Complaint. *See, A&N Music Corp. v. Venezia*, 733 F. Supp. 955, 957 (E.D. Pa. 1990) (finding that because the defendant had failed to plead a default judgment was

appropriate and that the averments of copyright infringement are deemed admitted based on defendant's default).

14. This Motion is further based on the facts attested to in the Declaration of Christopher P. Fiore, Esq. and the Memorandum of Points and Authorities in Support of Motion for Entry of Default Judgment filed contemporaneously herewith, and the record of the proceedings and papers on file herein. These materials are sufficient to justify the requested relief.

WHEREFORE, Plaintiff, Malibu Media, LLC, respectfully requests entry of a default judgment in favor of Plaintiff and against Defendant, Dennis Mcowen, in the form of the Proposed Default Judgment and Permanent Injunction attached hereto, and for such other and further relief this Court deems just and proper.

Dated: December 5, 2019

Respectfully submitted,

FIORE & BARBER, LLC

By: /s/ Christopher P. Fiore
Christopher P. Fiore, Esquire
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Harleysville, PA 19438
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PA Attorney ID: 83018

CERTIFICATE OF SERVICE

I hereby certify that on December 5, 2019, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF and that service was perfected on all counsel of record and interested parties through this system.

I further certify that some of the participants in the case are not CM/ECF users. I have mailed the foregoing document via U.S. Mail to the persons set forth in the Service List below.

By: /s/ Christopher P. Fiore

Service List

Dennis Mcowen
1401 Peach Tree Lane
Philadelphia, PA 19111.